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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/081,084

02/22/2002

Indra Laksono

1459-VLXS029

2352

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7590

01/17/2008

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AUSTIN, TX 78730

EXAMINER

SHEPARD, JUSTIN E

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

01/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/081,084

Applicant(s)

LAKSONO ET AL.

Examiner

Justin E. Shepard

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached response to arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 12/20/07 have been fully considered but they are not persuasive.

Page 3, paragraph beginning with "As a first issue":

The applicant argues that Deshpande fails to disclose a device which uses multicasting to distribute data to users. The applicant agrees that Deshpande acknowledges the idea that sending video data by way of multicasting is often used (column 1, lines 22-26 and 57-67). While Deshpande does not state in the "Detailed Description" that their invention uses multicasting to send the data, it does state that data is sent to a group of users, which the examiner feels that one of ordinary skill in the art would accept that this includes multicasting as Deshpande has already disclosed that video data is often sent in this manner to groups.

Page 3, first paragraph:

The applicant argues that because Deshpande uses a method to reallocate bandwidth depending on the responses detailing the bandwidths of individual users that a situation detailed on the following page would result. This example shows that after the user initially subscribes to the first address (cluster A getting stream A), that if one of the receivers in this group's bandwidth changes that it could be moved over to stream B as shown in the drawing labeled Time T2. As Deshpande does not detail how the user would re-subscribe to this new stream, he argues that this shows that the user does not

select a stream based on its own bandwidth. The examiner feels that this example shows one interpretation of the reference, although there are other interpretations that are considered valid. One would be that after DR1 and DR2 subscribe to stream A, let's say both of their bandwidths fall at the same time. If this happens the server can lower the bandwidth (and resolution) of the video being sent as the extra bandwidth would be wasted on the receivers. On the other hand, if only DR1's bandwidth falls, then the server would choose to keep the stream at the same level as the extra bandwidth would not be being wasted, but instead be used by DR2.

One of the dependent claims (62) deals with the idea of a device subscribing to one stream, and then switching a later time and Aho is brought in to teach this concept. Therefore Deshpande discloses the initial idea claimed in claim 58, which is initially selecting a stream based on a user's bandwidth.

Page 6, paragraph beginning with "To illustrate":

The applicant argues that the combination of Deshpande and Hinderks would destroy the Deshpande reference, as a one-way version of Deshpande would not allow for user's to report their bandwidths back to the server. As stated in Deshpande (column 5, lines 3-14); the bandwidth selected could be a range of potential bandwidths across the network, and updating the bandwidths could be based on a number of user's reporting. So if the user was unable to report back (i.e. the area they were currently in did not allow for 2-way communication), they would still be able to subscribe to the

stream using the look-up-table, and the server would still be able to update the bandwidths using the other user's data being sent back.

Page 8, paragraph beginning with "Turning to Cheriton":

The applicant argues that Cheriton does not disclose a device for users to subscribe to different channels, each with their own video resolution; but instead discloses a device that transmits different resolutions on a single virtual address (and/or channel) (Cheriton: column 3, lines 22-41; column 3, line 65 - column 4, line 53; column 5, lines 19-21). Referring to figure 3 of Cheriton, it would appear that the applicant was right, and that there is only one transmission path for the data; but referring to figure 7 shows a different embodiment, one with multiple transmission paths. Also, Cheriton discloses that the virtual addressing (column 6, lines 49-62) is used to mask the switching of a main source to a back-up source, so that a user's data would not appear to be interrupted. In the following paragraph, Cheriton discloses that separate channels would be used to transmit different resolutions of video to different groups of users, based on what channel they were subscribing to. The examiner feels that the applicant and he are referring to different embodiments disclosed in the same reference, which is causing some confusion.

Page 9, last paragraph:

This argument has been responded to above.

Application/Control Number:
10/081,084
Art Unit: 2623

Page 5

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS



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